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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,433	10/17/2005	Hans-Jürgen Karnatz	2002P10529WOUS	5407
7590 Siemens Corporation Intellectual Property Department 170 Wood Avenue South Iselin, NJ 08830			EXAMINER BHATIA, AJAY M	
			ART UNIT 2145	PAPER NUMBER
			MAIL DATE 05/28/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/527,433

**Applicant(s)**

KARNATZ ET AL.

**Examiner**

AJAY BHATIA

**Art Unit**

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 24-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SE-US)  
Paper No(s)/Mail Date 3/10/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Specification***

The disclosure is objected to because of the following informalities: The specification make reference to the claims by number which could possible change during prosecution of the case.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 24-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Sandler (United States Patent 6,378,069).

For claim 24, Sandler teaches, a data communication system for updating a software stored in a storage device of a first computer, comprising an administrative computer for updating the software; (Sandler, Col. 4 line 65 to Col. 5 line 10, download server)

an indicator indicating a transmission medium for updating software that is exchanged between the first computer and the administrative computer prior to the update; (Sandler, Col. 3 lines 5-15, initiation signal)

and a data connection operatively connecting the first computer and the administrative computer via the transmission medium adapted to transmit data between the computer and the administrative computer. (Sandler, Col. 6 lines 16-29, download server)

For claim 25, Sandler teaches, the data communication system according to claim 24, wherein the indicator is exchanged over a predetermined transmission medium. (Sandler, Col. 4 lines 55-65, short message GSM)

For claim 26, Sandler teaches, the data communication system according to claim 25, wherein the predetermined transmission medium is different from the transmission medium. (Sandler, Col. 6 lines 15-30, circuit switched)

For claim 27, Sandler teaches, the data communication system according to claim 25, wherein the predetermined transmission medium is a telephone connection. (Sandler, Col. 6 lines 1-15, PSTN)

For claim 28, Sandler teaches, the data communication system according to claim 24, wherein the transmission medium is an internet connection or a telephone connection. (Sandler, Col. 6 lines 1-15, internet)

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For claim 29, Sandler teaches, the data communication system according to claim 28, wherein the internet connection is fixed and an IP address assigned to the first computer is a fixed IP, or the internet connection is temporary and an IP address assigned to the first computer is a temporary IP address. (Sandler, Col. 5 lines 10-25, address of subscriber)

For claim 30, Sandler teaches, the data communication system according to claim 24, wherein the first computer ascertains a second transmission medium for exchanging a control software, the control software controlling the software update. (Sandler, Col. 5 lines 26-32, configuration file)

For claim 31, Sandler teaches, the data communication system according to claim 25, wherein a control software for controlling the software update is exchanged between the first computer and the administrative computer over the predetermined or transmission medium. (Sandler, Col. 6 lines 15-30, download)

For claim 32, Sandler teaches, the data communication system according to claim 31, wherein the control software indicates a time to perform the software update. (Sandler, Col. 7 lines 25-47, out of date, Col. 10 lines 46-56, delay time)

For claim 33, Sandler teaches, the data communication system according to claim 31, wherein the control software indicates a call identification that is assigned to the

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additional first computer, the call identification selected from the group consisting of telephone number, internet protocol address, and uniform resource locator address.

(Sandler, Col. 5 lines 11-25, network address)

For claim 34, Sandler teaches, the data communication system according to claim 31, wherein a second transmission medium for exchanging data between the first computer and the additional first computer is conveyed via the control software. (Sandler, Col. 8 line 39 to Col. 9 line 11, in the contents)

For claim 35, Sandler teaches, the data communication system according to claim 34, wherein the second transmission medium is the same as the transmission medium or the predefined transmission medium. (Sandler, Col. 8 line 39 to Col. 9 line 11, PSTN)

For claim 36, Sandler teaches, the data communication system according to claim 34, wherein the second transmission is different than the transmission medium and the predefined transmission medium. (Sandler, Col. 9 lines 13-17, alternative data call)

For claim 37, Sandler teaches, the data communication system according to claim 34, wherein a file for updating software is stored on the additional server and wherein the file first computer is transmitted to the first computer over the second transmission medium. (Sandler, Col. 6 lines 1-29, short message server, download server)

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For claim 38, Sandler teaches, the data communication system according to claim 37, wherein the additional first computer is a trivial file transfer protocol server first computer or a web server first computer. (Sandler, Col. 4 lines 56-65, internet, email)

For claim 39, Sandler teaches, the data communication system according to claim 24, wherein the first computer is a telecommunication system. (Sandler, Col. 4 lines 21-26, message server)

For claim 40, Sandler teaches, the data communication system according to claim 24, wherein the software to be updated is a communication-control software. (Sandler, Col. 9 lines 25-50, update)

For claim 41, Sandler teaches, the data communication system according to claim 24, wherein the first computer is part of a first data network and functions as a central first computer for the first data network. (Sandler, Col. 4 lines 22-26, short message server)

For claim 42, Sandler teaches, the data communication system according to claim 24, wherein the first data network is connected to a second data network forming an aggregate network and wherein the first computer initiates updating the software stored on a second computer in the second network. (Sandler, Col. 6 lines 1-29, short message server, download server)

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For claim 43, Sandler teaches, a first computer in a data communication system, comprising:

a processor; (Sandler, Col. 6 lines 43-60, processor)

a storage device operatively connected to the processor; (Sandler, Col. 7 lines 3-15, memory)

a first data connection operatively connected to a server computer over a transmission medium for exchanging data for updating a first software, the transmission medium ascertained by the computer occurring prior to establishing the first connection; (Sandler, Col. 9 lines 1-10, pstn)

a second software controlling the first software update, the second software exchanged between an administrative computer and the first computer; (Sandler, Col. 6 lines 16-29, download server)

a call identification of the first computer selected from the group consisting of telephone number, internet protocol address, and uniform resource locator address; (Sandler, Col. 5 lines 11-25, network address)

and a time indicator indicating a time to update the first software by the second software. (Sandler, Col. 7 lines 25-47, out of date, Col. 10 lines 46-56, delay time)

For claim 44, Sandler teaches, a method for updating software stored on a first computer of a data communication system having an administrative computer and a server first computer, comprising:



indicating a transmission medium for exchanging data between the first computer and the administrative computer, the indication occurring prior to the updating the software stored on the first computer; (Sandler, Col. 9 lines 1-10, psn)

and establishing a data connection between the first computer and the additional server first computer over the transmission medium. (Sandler, Col. 6 lines 15-29, download server)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached Notice of references cited (if appropriate).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay M. Bhatia whose telephone number is (571)-272-3906. Also any interview requests should be faxed directly to the examiner at (571)-273-3906. The examiner can normally be reached on M-F 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*/Jason D Cardone/*  
Supervisory Patent Examiner, Art Unit 2145